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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,808	12/20/2001	Ernst Faber	FABER,S-7	5272
25889	7590	11/16/2004	EXAMINER CULLER, JILL E	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			ART UNIT 2854	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/913,808	FABER, ERNST	
	Examiner	Art Unit	
	Jill E. Culler	2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19,20,22 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19,20,22 and 24-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19, 20, 22 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,855,170 to Shih in view of U.S. Patent No. 5,048,414 to Wall et al. and U.S. Patent No. 1,879,387 to Melind.

With respect to claims 19-20, Shih teaches a self-inking hand stamp comprising a stamp housing, 10, a frame, 30, comprising two broad sides opposite each other, two narrow sides opposite each other and a top side with a receiving recess, 31, for accommodating an information sheet, 35, and a one-piece, transparent, detachably mounted cover, 34, associated with said receiving recess, being delimited by edges before it reaches the narrow sides of the frame and having locking projections for snapping into locking recesses in the edges of the receiving recess, the locking projections also forming means for holding the information sheet on an inside of the transparent cover. See Fig. 1 in particular.

Shih does not teach that the hand stamp comprises a stamp aggregate, arranged in the stamp housing, capable of moving from an inking position on an ink pad into a stamping position, an actuating frame incorporating a reversing mechanism mounted in the form of a cap on top of the stamp housing which can be depressed relative thereto

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against a spring force for moving the stamp aggregate from the inking position into the stamping position, the narrow sides of the actuating frame extending into legs resting laterally on the stamp housing, the receiving recess being substantially U-shaped and extending continually from the top side to both broad sides, the transparent cover being conformingly U-shaped and having locking projections extend inwardly from the edges of the cover for snapping into locking recesses on the broad sides of the receiving recess.

Wall et al. teaches the hand stamp comprises a stamp aggregate, arranged in a stamp housing, 1, capable of moving from an inking position on an ink pad, 7, into a stamping position, an actuating frame, 4, incorporating a reversing mechanism mounted in the form of a cap on top of the stamp housing, 1, and capable of being depressed relative thereto against a spring force for moving the stamp aggregate from the inking position into the stamping position, the two narrow sides of the actuating frame extending into legs resting laterally on the stamp housing, 1. See Figs. 1-3 in particular.

Melind teaches a handle having a receiving recess, 17, for accommodating an information sheet, where the recess is substantially U-shaped and extends continually from the top side to at least one of the broad sides, with a transparent cover, 9', detachably mounted over the receiving recess, curved to conform to the receiving recess and comprising locking projections, inwardly extending from the edges for snapping into locking recesses on the broad sides. See page 3, lines 27-42 and Fig. 8.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the hand stamp of Shih using the stamp aggregate of Wall et al.

to provide consistent inking of the stamp before use and the receiving recess shape of Melind for maximizing the information provided to the user.

With respect to claim 22, Shih teaches a transparent cover having locking projections, 341, which are strips molded on the edges of the transparent cover, and locking recesses, 313, which are conforming locking windows. See column 3, lines 28-30 and Fig. 1.

With respect to claims 24-25, Shih does not teach a support shoulder at at least one of the edges of the receiving recess for supporting the edge of the cover, or that the receiving recess is at most less curved than the curved transparent cover.

Melind teaches a support shoulder at at least one of the edges of the receiving recess for supporting the edge of the cover, and that the receiving recess is at most less curved than the curved transparent cover. See Figs. 4 and 8.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the stamp of Shih to have the additional design features of Melind in order to better support and retain the transparent cover.

3. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shih, Wall et al. and Melind, as applied to claims 19, 20, 22 and 24-25 above, and further in view of U.S. Patent No. 5,623,875 to Perets.

Shih, Wall et al. and Melind teach all that is claimed, as in the above rejection of claims 19, 20, 22 and 24-25, except that the transparent cover is curved in transverse and longitudinal directions.

Perets shows a hand stamp having a cover which is curved in transverse and longitudinal directions.

It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the handle design of Shih using the curving structure of Perets in order to provide a more advantageous surface for grasping the stamp.

Response to Arguments

4. Applicant's arguments filed August 23, 2004 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in

the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one having ordinary skill in the art would recognize the advantages of modifying the stamp of Shih using the self-inking structure of Wall et al. and would be motivated to combine the structures to provide a more efficient stamp. Similarly, one having ordinary skill in the art would recognize the advantages of the cover and label of Melind and would be motivated to further modify the combination to include these features in order to better present information to a user.

In response to applicant's argument that neither Shih nor Melind suggests the claimed configuration of information sheet and cover, the combination of the references teaches the limitations as they are recited in the claim. In response to the argument that Melind's solid handle could not be used in the disclosed stamp, there is no suggestion to use the solid handle of Melind with the invention, merely the cover and sheet design. In response to the argument that the projections of Melind do not snap into locking recesses, the projections are made of a flexible material and when inserted into locking recesses, would snap into place. In response to the argument that the flanges do not form a means for holding the insert on the inside of the cover, there is no requirement in the claim for the insert to be held in place while the cover is detached from the stamp. When attached as described, the flanges do, indeed form part of the means for holding the insert inside the cover.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill E. Culler whose telephone number is (571) 272-2159. The examiner can normally be reached on M-Th 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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